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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/296,120	04/21/1999	THOMAS J. REDDIN	03628-0400	7995
29052	7590	05/09/2006	EXAMINER	
SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			ART UNIT	PAPER NUMBER

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/296,120	Applicant(s) REDDIN ET AL.	
	Examiner Jean Janvier	Art Unit 3622	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on _____ is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Contrary to the Applicant's conclusion, under the "Summary of the claimed subject matter", support in the specification should be provided for all argued claims, i.e. independent and dependent claims. Here, a simple reference to a dependent claim as being patentable because the independent claim is patentable over the prior art of record does not require any explicit reference in the specification since such a dependent claim is not argued separately. However, in the current Brief, dependent claims 5-8, 9-11, 14, 15, 21, 22, etc. are argued separately and thus, support in the specification should be provided or explicitly mentioned therein. For instance, regarding dependent claims 5-8, in the current Brief, Applicant had stated that "This group of claims concerns further limitations as to the predetermined type of consumer. In this case, the consumer is a home category manager. Deaton is completely silent on the characteristics of a home category manager". By so doing, the Applicant admits that these claims are patentable over Deaton. The latter represents a separate or further argument related to dependent claims 5-8 in addition to the remarks corresponding independent claim 1. Thus, support in the specification should be provided therei since the dependent claims are argued separately.

JEAN D. JANVIER
PRIMARY EXAMINER